

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CESARIO VIZCARRA MEDINA,

Plaintiff,

v.

CDCR, et al.,

Defendants.

Case No. 1:22-cv-00764-ADA-EPG (PC)

ORDER RE: PLAINTIFF'S REQUEST FOR  
STATUS OF SERVICE OF SUBPOENA  
AND TO ADD A DEFENDANT

(ECF No. 16)

Cesario Medina ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On February 21, 2023, Plaintiff filed a request for a status of service of his subpoena for documents to identify the Doe defendants, as well as a request to add a defendant. (ECF No. 16).

As to Plaintiff's request for a status of service of his subpoena, the Court has reviewed the docket, and no return of service has been filed. The Court has contacted the United States Marshals Office ("USMS"), and was informed that the return of service should be filed in the near future. As the return of service has not yet been filed, the Court will extend Plaintiff's deadline to file a motion to substitute named defendants in place of Doe ISU Officers 1-3.

As to Plaintiff's request to add a defendant, it will be denied without prejudice. Plaintiff appears to be asking to amend his complaint. However, Plaintiff did not file an amended complaint along with his motion.<sup>1</sup> If Plaintiff chooses to refile his motion to amend, he should

<sup>1</sup> "If filing a document requires leave of court, such as an amended complaint after the time to amend as a matter of course has expired, counsel shall attach the document proposed to be filed as an exhibit to moving papers (continued...)"

1 explain the changes he is attempting to make to his complaint and include a copy of the proposed  
2 amended complaint. If Plaintiff's refiled motion to amend is granted, the Court will screen  
3 Plaintiff's First Amended Complaint.

4 Accordingly, IT IS ORDERED that:

- 5 1. Plaintiff has until April 10, 2023, to file a motion to substitute named defendants in  
6 place of Doe ISU Officers 1-3. Failure to file a motion to substitute by this deadline  
7 may result in the dismissal of the unidentified defendants; and
- 8 2. Plaintiff's request to add a defendant is denied, without prejudice.

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10 IT IS SO ORDERED.

11 Dated: **February 22, 2023**

12 /s/ Eric P. Gray  
13 UNITED STATES MAGISTRATE JUDGE

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(...continued)

26 seeking such leave....” Local Rule 137(c). See also Local Rule 183(a) (“All obligations placed on ‘counsel’ by  
27 these Rules apply to individuals appearing in propria persona.”). The Court also notes that Local Rule 220 requires  
28 that “every pleading to which an amendment or supplement is permitted as a matter of right or has been allowed by  
court order shall be retyped and filed so that it is complete in itself without reference to the prior or superseded  
pleading,” “[u]nless prior approval to the contrary is obtained from the Court.” Local Rule 220.